

AMENDED IN SENATE JULY 20, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY APRIL 30, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 761

Introduced by Assembly Member Maddox

February 22, 2001

An act to amend Section 125.9 of, and to add ~~Section 7558.6~~ Sections 7527.1, 7541.2, and 7567 to, the Business and Professions Code, relating to private investigators.

LEGISLATIVE COUNSEL'S DIGEST

AB 761, as amended, Maddox. Private investigators: continuing education.

Existing law, the Private Investigator Act, authorizes the Director of Consumer Affairs to require an applicant for a private investigator's license, or his or her manager, to demonstrate his or her qualifications by a written or oral examination, or combination of both. Existing law also requires an applicant for licensure to meet certain experience requirements.

This bill would require the Bureau of Security and Investigative Services to consider including on the licensure examination questions on the subject of laws relating to privacy and professional ethics and supplementing the examination with a separate professional ethics examination. If the bureau determines to supplement the examination

with a professional ethics examination, the bill would require the bureau to require that current licensees take the examination if this requirement is appropriate. The bill would also authorize the bureau to require an applicant for licensure to submit proof of satisfactory completion of a course in professional ethics, and would authorize the bureau to specify which courses and course providers would satisfy the requirement. The bill would authorize the bureau to require a licensee who violates any provision of the act to either satisfactorily complete relevant coursework or retake the licensing examination.

~~Existing law provides that a private investigator license expires 2 years following the date of issuance, or on the assigned renewal date. A licensee is required to apply for a renewal and pay a renewal fee in order to renew his or her license.~~

~~This bill would establish continuing education requirements for licensed private investigators, specify how hours of continuing education units would be measured, place a limit on the number of units that could be earned from self study, correspondence, and distance learning courses, and would make renewal of a private investigator's license contingent upon meeting those requirements. The bill would also specify standards to be met by continuing education providers, and an approval process whereby the Department of Consumer Affairs would approve the course providers and the Advisory Committee would approve the courses. The bill would authorize a licensee to request that his or her license be placed on inactive status and would allow the licensee to reactivate the license by making a statement under penalty of perjury that he or she has obtained 14 hours of continuing education units. Because this bill would expand the crime of perjury, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.



The people of the State of California do enact as follows:

SECTION 1. Section 125.9 of the Business and Professions Code is amended to read:

125.9. (a) Except with respect to persons regulated under Chapter 8 (commencing with Section 6850), Chapter 11 (commencing with Section 7500), Chapter 11.5 (commencing with Section 7580), and Chapter 11.6 (commencing with Section 7590) of Division 3, or a person holding a license specified in paragraph (1), (6), or (7) of subdivision (b) of Section 9941, any board, bureau, or commission within the department, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

(b) The system shall contain the following provisions:

(1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.

(2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to the violation, or two thousand five hundred dollars (\$2,500) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

(4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any

1 fine shall not constitute an admission of the violation charged.
2 Hearings shall be held pursuant to Chapter 5 (commencing with
3 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
4 Code.

5 (5) Failure of a licensee to pay a fine within 30 days of the date
6 of assessment, unless the citation is being appealed, may result in
7 disciplinary action being taken by the board, bureau, or
8 commission. Where a citation is not contested and a fine is not
9 paid, the full amount of the assessed fine shall be added to the fee
10 for renewal of the license. A license shall not be renewed without
11 payment of the renewal fee and fine.

12 (c) The system may contain the following provisions:

13 (1) A citation may be issued without the assessment of an
14 administrative fine.

15 (2) Assessment of administrative fines may be limited to only
16 particular violations of the applicable licensing act.

17 (d) Notwithstanding any other provision of law, if a fine is paid
18 to satisfy an assessment based on the finding of a violation,
19 payment of the fine shall be represented as satisfactory resolution
20 of the matter for purposes of public disclosure.

21 (e) Administrative fines collected pursuant to this section shall
22 be deposited in the special fund of the particular board, bureau, or
23 commission.

24 ~~SEC. 2. Section 7558.6 is added to the Business and~~
25 ~~Professions Code, to read:~~

26 ~~7558.6. (a) Any individual licensed as a private investigator~~
27 ~~shall complete 14 hours of continuing education units, as approved~~
28 ~~by the department, in order to renew his or her license, and of these,~~
29 ~~one hour shall be in the subject of ethics and one hour shall be in~~
30 ~~the subject of privacy. For purposes of this section, hours of~~
31 ~~continuing education units shall be determined based upon actual~~
32 ~~time spent in an activity measured to the nearest one-quarter hour,~~
33 ~~reported in decimals, including actual instruction or speaking~~
34 ~~time, actual time spent viewing videotapes or listening to audio~~
35 ~~tapes, and actual time spent preparing materials for publication.~~
36 ~~Actual time spent in self study, including on-line training,~~
37 ~~correspondence courses, and distance learning, may be computed~~
38 ~~as approved by the Advisory Committee established pursuant to~~
39 ~~subdivision (j) and shall not exceed a maximum of seven~~
40 ~~continuing education units in a renewal period.~~

1 ~~(b) A licensee shall submit to the department a statement signed~~
2 ~~under penalty of perjury attesting that he or she has completed the~~
3 ~~continuing education requirements in subdivision (a). This~~
4 ~~statement shall be submitted with the license renewal application.~~

5 ~~(c) A licensee shall maintain, for a period of six years, copies~~
6 ~~of certificates of continuing education completion demonstrating~~
7 ~~compliance with the continuing education requirements in~~
8 ~~subdivision (a).~~

9 ~~(d) The department shall suspend the license of any licensee~~
10 ~~who is found not to be in compliance with subdivision (a), (b), or~~
11 ~~(c), for a period not to exceed 60 days, at which time the~~
12 ~~department shall revoke the license unless the required continuing~~
13 ~~education units have been completed.~~

14 ~~(e) A licensee renewing his or her license during the period~~
15 ~~from January 1, 2003, to December 31, 2003, inclusive, shall~~
16 ~~submit to the department a statement signed under penalty of~~
17 ~~perjury attesting that he or she has completed seven hours of~~
18 ~~continuing education units.~~

19 ~~(f) Continuing Education Providers (CEP) shall obtain~~
20 ~~approval from the Advisory Committee established pursuant to~~
21 ~~subdivision (j) prior to offering a course for continuing education~~
22 ~~units to licensed private investigators.~~

23 ~~(1) The Advisory Committee shall establish a procedure for~~
24 ~~approving CEPs to offer continuing education units to licensed~~
25 ~~private investigators.~~

26 ~~(2) Continuing Education Providers shall submit to the~~
27 ~~Advisory Committee a course description, certificate and~~
28 ~~curriculum vitae of course instructors for review and approval.~~

29 ~~(3) Continuing Education Providers shall maintain a record of~~
30 ~~course sign-in forms, sign-out forms, student enrollment, copies~~
31 ~~of certificates of completion, and course outlines for a period of six~~
32 ~~years.~~

33 ~~(4) Continuing Education Providers shall agree to audits~~
34 ~~performed by the department.~~

35 ~~(5) The Advisory Committee may revoke or deny the right of~~
36 ~~a CEP to offer continuing education units for failure to comply~~
37 ~~with any of the requirements of this subdivision.~~

38 ~~(g) The department shall deem accredited academic~~
39 ~~institutions and recognized national and state associations of~~

~~licensed private investigators as approved Continuing Education Providers.~~

~~(h) The department shall audit on an annual basis license renewal submissions and CEP applications.~~

~~(i) The department shall submit a report to the Legislature no later than January 1, 2005, evaluating the progress of the continuing education requirements of this section.~~

~~(j) The director or his or her delegate shall appoint an Advisory Committee to consult with the department in the consideration and approval of course providers and course content. The director shall appoint an Advisory Committee that consists of three licensed private investigators, one public member, and a representative of the Bureau of Security and Investigative Services.~~

~~(k) The Advisory Committee shall approve course providers and course content, and shall receive advice from the Department of Consumer Affairs. The Advisory Committee shall develop criteria for course providers and course content that, to the extent applicable and feasible, is consistent with the provisions of Section 166.~~

~~SEC. 3.— No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

SEC. 2. Section 7527.1 is added to the Business and Professions Code, to read:

7527.1. (a) When creating or updating the licensing examination required pursuant to Section 7527, the bureau shall consider all of the following:

(1) Including in the examination questions on the subject of laws relating to privacy and professional ethics.

(2) Supplementing the examination with a separate examination on the subject of professional ethics.

(b) If the bureau determines pursuant to subdivision (a) that a separate professional ethics examination is necessary, the bureau

1 *shall require that current licensees take the separate professional*
2 *ethics examination if this requirement is appropriate.*

3 *SEC. 3. Section 7541.2 is added to the Business and*
4 *Professions Code, to read:*

5 *7541.2. The bureau shall consider requiring, and may*
6 *require, an applicant for licensure to submit proof of satisfactory*
7 *completion of a course in professional ethics. If the bureau requires*
8 *an applicant to submit proof of satisfactory completion of a course*
9 *in professional ethics the bureau may specify which courses and*
10 *course providers satisfy the requirement.*

11 *SEC. 4. Section 7567 is added to the Business and Professions*
12 *Code, to read:*

13 *7567. The bureau may require a licensee who violates any*
14 *provision of this chapter to do either of the following:*

15 *(a) Satisfactorily complete relevant coursework as determined*
16 *by the bureau.*

17 *(b) Retake the licensing examination.*

